

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

PAMELA RHODES,

Plaintiff,

Civ. Action No. 1:19-CV-214
(Judge KleeH)

JOHN WYATT,
Kingwood Detachment State Police,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION
[ECF NO. 6] AND DISMISSING COMPLAINT

On December 4, 2019, the pro se Plaintiff, Pamela Rhodes ("Plaintiff"), filed a Complaint against the Defendant, John Wyatt ("Defendant"). Plaintiff's Complaint states that she "[d]id not get property back" and that she "got very upset and had a heart attack 3 days later." She requests \$250,000.00 in damages.

Plaintiff filed a Motion for Leave to Proceed in forma pauperis. ECF No. 2. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for initial review. ECF No. 4. On January 24, 2020, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court deny Plaintiff's motion and dismiss the Complaint for failure to state a claim over which the Court has jurisdiction.

The R&R also informed the parties that they had fourteen (14)

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days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Petitioner accepted service of the R&R on January 27, 2020. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarci v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court

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reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 6]. Plaintiff's Motion [ECF No. 2] is **DENIED**. The Complaint is **DISMISSED**. This action is **STRICKEN** from the Court's active docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and to the pro se Plaintiff, via certified mail, return receipt requested, at the last known address as shown on the docket.

DATED: March 11, 2020



THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE